

No. SE/PWD/B&R/RC/234.—Whereas it appears to the Governor of Haryana that land is likely to be required to be taken by Government, at public expense, for a public purpose, namely, for the construction of a link road from Naraingarh Sadhaura road to village Ambli in Ambala District, it is hereby notified that the land in the locality described below is likely to be acquired for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana is pleased to authorise the officers for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section

Any person interested who has any objection to the acquisition of any land in the locality may within 30 days of the publication of this notification file an objection in writing before the Land Acquisition Collector Haryana, Public Works Department, (Buildings and Roads Branch, Ambala Cantt.

#### SPECIFICATION

District	Tehsil	Locality	Area in Sq. miles	REMARKS
Ambala	Naraingarh	Ambli	2.10	As demarcated at site
		Dehar	2.02	
		Total	4.12	

M. M. SHARMA,  
Superintending Engineer,  
Construction Circle, Haryana, PWD, B & R Branch,  
Chandigarh.

#### LABOUR DEPARTMENT

The 27th April, 1972

No. 4057-4Lab-72/15830.—In exercise of the powers conferred by sub-section 1 of section 13 of the Employees' Provident Fund and Family Pension Fund Act, 1952, the Governor of Haryana is hereby pleased to appoint Shri B. L. Chopra, Provident Fund (Grade II) to be an Inspector for the whole of the State of Haryana for the purpose of the said Act and Scheme framed thereunder in relation to establishments other than those belonging to or under the control of the Central Government or any other establishment connected with a Railway Company a major part, a mine, an oil-field or a controlled industry.

No. 4311-4Lab-72/17260.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Rohtak-Delhi Transport (P) Ltd., Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

References Nos. 126 to 132 of 1970

between

SARVSHRI SYAM DEV DRIVER, MURARI LAL DRIVER, TIKAN LAL CONDUCTOR, RADHE SYAM CONDUCTOR, KRISHAN LALL II CONDUCTOR, SUBHASH CHAND CONDUCTOR, BHIM SEN CONDUCTOR AND THE MANAGEMENT OF M/S ROHTAK-DELHI TRANSPORT (P) LTD., ROHTAK

Present:

Shri S. N. Vats, for the workmen.  
Shri Chanchal Singh, for the management.

## AWARD

This judgement will dispose of this and the connected reference Nos. 127 to 132 of 1970 between the management of M/s Rohtak-Delhi Transport (P) Ltd., Rohtak and its workmen. The facts material for the judgement may, in brief, be stated as under :—

The management of M/s Rohtak-Delhi Transport (P) Ltd., Rohtak brought under retrenchment its workmen including Murari Lal and Syam Dev Drivers, Tikan Lal, Radhe Syam, Krishan Lal II, Subhash Chand and Bhim Sen Conductors on different dates beginning from 1st April, 1970. They protested against this retrenchment and raised a demand for their reinstatement with back wages contending that the retrenchment had been brought about without any justification and in contravention of the requirements of the law as laid down in clauses (a) and (b) of section 25 of the Industrial Disputes Act. There was, however, no satisfactory response from the management. Feeling aggrieved the workmen initiated proceeding before the Conciliation Officer where the management took the plea that the retrenchment had to be brought about because of the nationalisation of the Road Transport by the State Government.

On receipt of the failure report from the Labour-cum-Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred the disputes of all the workmen for adjudication to this Tribunal, the term of reference in all the references which have been registered as Reference Nos. 126 to 132 of 1970 being common:—

“Whether the retrenchment of the concerned workmen is justified and in order ? If so, what relief are they entitled ?”

On receipt of the order of reference from the Government usual notices were given to the parties and they filed their respective written statements. The workmen in their statement of claim filed individually reiterated their claim for reinstatement with continuity of previous service with full back wages contending that in bringing about their retrenchment the management had not complied with the mandatory provisions of the law in that persons junior to them had been retained in service and full retrenchment compensation due under the law had not been paid to them.

The management, on the other hand, contended that the Transport business was since in the process of closing up as a result of the Road Transport by the State Government the retrenchment of the workmen was unavoidable. It was further pleaded that the retrenchment had been brought about strictly in accordance with the requirements of the law after giving due notice and payment of full dues to the workmen concerned and necessary intimation had also been sent to the Government along with the statement of reasons for the retrenchment. From the pleadings of the parties the following issues arose for determination which are common in all the cases—

- (1) Whether the management should be required to reinstate/employ the concerned workmen ? If so, with what details ?
- (2) Whether M/s Rohtak-Delhi Transport (P) Ltd., Rohtak are in the process of closing down their business ? If so, with what effect ?

On the request of the parties all the seven references have been consolidated to avoid duplication of work there being common question of law and facts involved in all the cases. Proceedings have been recorded in the present reference No. 126 of 1970.

The management has examined 4 witnesses in all including M. W. 1, Shri Hargopal Singh, Office Superintendent, M. W. 2 Shri Jagdish Chander Chopra Station Superintendent, M. W. 3, Desh Ram Driver, M. W. 4, Shri On Parkash Sharma Accountant of the Company. The documentary evidence brought on record by the management consists of—

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| (1) Seniority list   | .. Ex. M. W. 1/1                       |
| (2) Regarding exhibition of notice on the Board                      | .. Ex. M. W. 1/2                       |
| (3) Copy of the resolution dated 2nd April, 1970                     | .. Ex. M. W. 1/3                       |
| (4) Original resolution for circulation                              | .. Ex. M. W. 1/4                       |
| (5) Retrenchment notices of Shri Sham Dev and Murari Lal             | .. Ex. M. W. 1/5 and<br>Ex. M. W. 1/6  |
| (6) Determination to Government along with the statements of reasons | .. Ex. M. W. 1/7 and<br>Ex. M. W. 1/8  |
| (7) A/D receipts   | .. Ex. M. W. 1/9, to<br>Ex. M. W. 1/11 |
| (8) Payment vouchers of the workers                                  | Ex. M. W. 1/12 to<br>Ex. M. W. 1/13    |

(9) Retrenchment notices of Sarvshri Radhey Sham, K. L. Gashain, Subhash Chander	Ex. M. W. 1/14 to Ex. M. W. 1/18
(10) Ack. receipts	.. Ex. M. W. 1/19 to Ex. M. W. 1/21
(11) Payment vouchers of the workers	.. Ex. M. W. 1/22 to Ex. M. W. 1/27
(12) Retrenchment notices of Sarvshri Bhim Sain and Tikan Lal	.. Ex. M. W. 1/28 to Ex. M. W. 1/29
(13) Intimation sent to Government	.. Ex. M. W. 1/30 to Ex. M. W. 1/31
(14) Acknowledgement receipts	.. Ex. M. W. 1/32 to Ex. M. W. 1/34
(15) Money order receipt	.. Ex. M. W. 1/35
(16) Coupon of Money orders	.. Ex. M. W. 1/36
(17) Payment of vouchers	.. Ex. M. W. 137 and Ex. M. W. 1/38
(18) Money order receipt	.. Ex. M. W. 1/39
(19) Money order coupon	.. Ex. M. W. 1/40
(20) List of staff as on 31st March, 1970	.. Ex. M. W. 1/41
(21) List of staff as on 31st March, 1971	.. Ex. M. W. 1/42
(22) List of vehicles as on 31st March, 1970	.. Ex. M. W. 1/43
(23) List of vehicles as on 31st March, 1971	.. Ex. M. W. 1/44
(24) Memorandum and articles of Associations	.. Ex. M. W. 1/45

On behalf of the workmen 4 witnesses have been examined including Shri S.N. Vats, General Secretary, Haryana Motor Transport Workers Union, Rohtak W. W. 1, Shri Sham Dev Driver concerned workman W. W. 2, Shri Udhey Singh Driver of the respondent transport company W. W. 3, Shri Murari Lal Driver concerned workman W. W. 4. The documentary evidence produced by the workmen consists of :—

(1) Demand notice dated 25th June, 1970	.. Ex. W. W. 1/1
(2) Letter of Conciliation Officer	.. Ex. W. W. 1/2
(3) Letter of adjournment of Conciliation Officer	.. Ex. W. W. 1/3
(4) Demand notice dated 20th July, 1970 regarding Sham Dev	.. Ex. W. W. 1/4
(5) Endorsement in the hand of Shri Hargopal Singh	.. Ex. W. W. 1/5
(6) Statement of demand	.. Ex. W. W. 1/6 and Ex. W. W. 1/7
(7) Written statement	.. Ex. W. W. 1/8 and Ex. W. W. 1/9
(8) Failure report of Conciliation Officer	.. Ex. W. W. 1/10
(9) Agreement dated 25th September, 1956	.. Ex. W. W. 1/11
(10) Wage slip	.. Ex. W. W. 2/1

The case has been well argued on both sides and I have been taken through the entire evidence on record. The law is well settled. An employer has a right to reorganise his business in the manner he likes and he is under no obligation to keep in service the employees who are found to be in excess of his genuine requirements. The surplus staff has got to be reduced. However, certain conditions, as laid down in section 25 F of the Industrial Disputes Act, have to be complied with before effecting the retrenchment of the employees and the retrenchment brought about in violation of those mandatory provisions of the law is liable to be set aside.

In the instant case, the retrenchment of the concerned workmen has been effected manifestly due to the circumstances beyond the control of the management as a result of the nationalisation of the Road Transport by the State Government. The facts and figures brought on record by the management speak for themselves. There is no denying the fact by the workmen that the scheme of nationalisation of Road Transport has been introduced

by the State Government and as a result of the introduction of this scheme 22 route permits issued by the State Government have since been withdrawn. The respondent transport company is now left with only three route permits issued by the Delhi Transport Authority for Rohtak to Delhi and back. The business carried out by the respondent company has consequently shrunk to a very large extent. Out of the 14 buses originally owned the company had been left with only 5 buses out of which two more have been disposed of. The remaining three buses were given to Delhi Transport Union on temporary basis, to be plied by the D. T. C., under its own terms and conditions. The respondent company had no doubt let the service of some drivers and conductors to the D. T. U., for running the buses.

In the circumstances the action of the respondent transport company in bringing about the retrenchment of the staff and the workers including drivers and conductors etc., which was unavoidable due to the circumstances beyond its control cannot, therefore, be questioned. It is further clear from the material on record that retrenchment notices had been given to the concerned workmen as also to the Government as required by the law.

The question, however, that next arises for consideration is whether the principle of last come first go has been observed in effecting the retrenchment and whether the due retrenchment compensation provided by the law has been paid to all the workmen concerned. It will not be out of place to mention here that it is not a case of total closure of the business by the respondent transport company as admittedly three route permits are still with the company issued by the Delhi Transport Authority on which buses are being regularly run from Delhi to Rohtak and back and for the proper running of this limited business some staff including drivers, conductors, etc., has been retained.

As would be clear from the facts of the case discussed above, two categories of the workmen who have been retrenched are concerned in the present references, namely, (1) 5 conductors Sarvshri Tikan Lal, Radhey Sham, Krishan Lal II, Subhash Chand, Bhim Sen and two drivers Sarvshri Sham Dev and Murari Lal. The conductors named above have not come forward to press their claim so much so that they have not even made their own statements on oath to show how their rights have been ignored in the matter of their seniority or how they have been hit by the non-payment of the due retrenchment compensation, and that being the case, they are not entitled to any relief by way of reinstatement or back wages. That would dispose of reference Nos. 128 to 132 of 1970 which have to be answered against the concerned workmen for want of satisfactory evidence.

Then remains the case of two drivers Sham Dev and Murari Lal covered by reference Nos. 126 and 127 of 1970. Their case is somewhat different from that of the conductors. They have come into the witness-box and made statements on oath that the management has overlooked their seniority in effecting the retrenchment, whatever by the reasons for the same, nor have they been paid adequate compensation. A close scrutiny of the record would reveal that their claim appears to be well founded and the management has not been able to rebut it successfully.

To begin with the principle of 'last come first go' does not appear to have been observed in their case. The management has relied upon the seniority list Ex. M. W. 1/1 as on 6th April, 1970. The relevant record on the basis of which this seniority list has been prepared taking into consideration the length of service of each and every workman concerned has not been produced nor is it clear as to who had prepared it. It has been stated that the list is issued under the signatures of the General Manager and it is exhibited on the notice board. The General Manager has not come into the witness box and stood the test of the cross-examination by the workmen. The old records pertaining to the entry into service of the concerned workmen has not been produced nor even the earlier seniority lists which should have been prepared in due course much before any controversy arose regarding the retrenchment of the workmen from service. The workmen on the other hand have produced the two seniority lists of April, 1968 Ex. W. 3 and Ex. 4 which purport to have been supplied to them under the signatures of the Accounts Clerk of the company. In these seniority lists both Sham Dev and Murari Lal have been shown senior to several other drivers who are still in the service of the respondent company including Sarvshri Ram Parshad, Harbans Singh, Des Ram, Ram Kirpal, Yogeshwar Dutt, Mam Chand. No attempt has been made on behalf of the management to challenge the genuineness of these seniority lists. It has not been explained how Sham Dev, Murari Lal had become junior to the abovenamed persons when they were manifestly shown senior to them in the earlier seniority lists of 1968. Their seniority has in a way been admitted by Shri Udhey Singh, W. W. 3 who is still working as a Driver with the respondent transport company. In the circumstances no sanctity can be attached to the seniority list relied upon by the management in the case. Even in this seniority list Shri Des Ram has been shown junior to Shri Sham Dev and as such there was no justification for retaining him in service in preference to Shri Sham Dev. An attempt has been made on behalf of the management to show that Shri Sham Dev was a Car Driver but no such mention has been made in the seniority list itself, wherein he has been described only as a driver like others including Sarvshri Sham Dev and Murari Lal. All this gives the impression that the management has deliberately overlooked the seniority of the present claimants, namely, Sarvshri Sham Dev and Murari Lal Drivers in bringing them under retrenchment by retaining into service persons junior to them.

So much for the well recognised principle of last come first go which has apparently been observed only in its breach in the present case. As for the payment of the retrenchment compensation also the drivers named above have made out a good case to justify interference with the order of their retrenchment. It has been admitted on behalf of the management that besides their basic pay they were getting what has been described as Trip Commission, booking reward and fixed chappal allowance which had become part of their monthly earnings, a condition of their service but the monetary benefits arising out of these reward and allowances have not been taken into

consideration while determining the amounts payable to them on account of one months notice wages and retrenchment compensation on the basis of their length of service. In the case of Sham Dev the retrenchment compensation has been calculated with effect from 19th June, 1955 while according to the wage slip Ex. W. W. 2/1 produced by him he was in service in June, 1954. The period from, June 1954 to 19th June, 1955 has not been taken into consideration while fixing the service compensation. The same appears to be the case with Shri Murari Lal, Driver. He has joined service in January, 2, 1956 but the retrenchment compensation in his case has been calculated with effect from 1st October, 1956 and no reasonable explanation for ignoring the previous period is forthcoming.

For the reasons aforesaid, the retrenchment of Sarvshri Sham Dev and Murari Lal can not be held to be justified and in order and the same is liable to be set aside. The issue is decided accordingly in their favour.

As for the relief they should be entitled to, it has been argued on behalf of the management that since the respondent transport company is in the process of closing up its business they should not be reinstated and only reasonable compensation should be allowed to them. I am afraid, the contention has not much force. As already observed the management has not yet closed its business. It has still got three route permits issued by Delhi Transport Authority against which the buses are regularly plied from Delhi to Rohtak and back and for the proper running of these buses drivers are required. There is no reasonable justification for depriving the present claimants of their right to continuing the service of the respondent company in view of their established seniority over some other drivers who have been retained in service. The case might have been different if the respondent transport company was actually in the process of winding up its business for which only a skeleton staff might have been needed. I, therefore, reject the contention raised on behalf of the management and decide issue No. 2 accordingly in favour of Sarvshri Sham Dev and Murari Lal drivers.

In the result, Sarvshri Sham Dev and Murari Lal drivers are entitled to reinstatement with continuity of their previous service and full back wages and the award in references Nos. 126 and 127 of 1970 is made accordingly. So far as the remaining references Nos. 128 to 132 of 1970 are concerned Sarvshri Tikan Lal, Radhey Sham, Krishan Lal II, Subhash Chand and Bhim Sen conductors who have not pursued their claim are held not entitled to any relief by way of reinstatement or back wages and their references shall accordingly stand rejected. In the circumstances there shall be no order as to costs in all the references.

O. P. SHARMA,  
Presiding Officer,

Dated, the 31st March, 1972.

Industrial Tribunal, Haryana, Faridabad

No. 438, dated the 11th April, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,

Dated, the 31st March, 1972.

Industrial Tribunal, Haryana, Faridabad.

No. 4485-Lab-72/17319.—In pursuance of the provisions of Section 17 of the Industrial disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Joga Metal Works Jagadhri.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 24 of 1972

between

THE WORKMEN SHRI BUNDA RAM C/O PANDIT MADHU SUDAN SHARAN COWSHISH,  
GENERAL SECRETARY, JAGADHRI METAL MAZDOOR SABHA (REGD), JAGADHRI AND  
THE MANAGEMENT OF M/S JOGA METAL WORKS, JAGADHRI.

Present.—

Shri Madhu Sudan Sharan Cowshish, for the workmen.

Nemo, for the management.

AWARD

The following Industrial dispute between the workman Shri Bunda Ram and the management of M/s. Joga Metal Works, Jagadhri was referred to this Court for adjudication,—vide Government Gazette Notification No. ID/Amb/219-A-71, dated 5th January, 1972:—

“Whether the termination of services of Shri Bunda Ram was justified and in order? If not; to what relief is he entitled?”

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It is not necessary to decide the case on merits because the representative of the workmen has made a statement that the workmen has settled his dispute with the management in full and final settlement of all his claims and now nothing is due to him. I give my award accordingly. No order as to costs.

Dated, the 20th April, 1972.

P. N. THUKRAL,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 607, dated Rohtak, the 20th April, 1972.

Forwarded in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 4486-4Lab-72/17321.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Haryana Coach Body Builders, Rohtak.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 197 of 1971

between

THE WORKMAN SHRI TARA CHAND C/O BAHADURGARH POTTERIES AND GENERAL  
LABOUR UNION, BAHADURGARH AND THE MANAGEMENT OF M/S. HARYANA  
COACH BODY BUILDERS, GOHANA STAND, ROHTAK

Present :

Shri Rajinder Singh, for the workman.

Shri Guru Dutt, for the management.

#### AWARD

The following industrial dispute between the workman Shri Tara Chand and the management of M/s. Haryana Coach Body Builders, Gohana Stand, Rohtak, was referred to this Court for adjudication.—vide Government Gazette Notification No. ID/RK/171-B-71, dated 25th June, 1971.

“Whether the termination of services of Shri Tara Chand was justified and in order? If not; to what relief is he entitled?”

It is not necessary to decide the case on merits because a compromise has been effected between the parties. The management have agreed to take back the applicant into their service with effect from 15th April, 1972. The applicant will not be entitled to any back wages. I give my award in accordance with the terms of compromise as recorded in the statements of the parties. There will be no order as to costs.

Dated, the 20th April, 1972.

P. N. THUKRAL,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 606, dated Rohtak, the 20th April, 1972

Forwarded in quadruplicate to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.